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Attorney Docket No. PG4961

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Gough, *et al* December 13, 2006
Serial No.: 10/529,931 Group Art Unit: 1648
Filed: 5 January 2006 Examiner: A. Salimi
For: DNA VACCINE ENCODING AT LEAST TWO NONSTRUCTURAL EARLY
PROTEINS OF PAPILLOMAVIRUS

**RESPONSE TO REQUIREMENT FOR
RESTRICTION UNDER 35 U.S.C. § 121 and 372**

This paper is in response to the Restriction Requirement dated 26 October 2006, setting forth
a one-month or thirty (30) day shortened statutory period for reply.

PETITION FOR EXTENSION OF TIME

Applicants hereby petition for an extension of time for response from the date of the
Examiner's action as needed, the fee being as follows:

- | | |
|--------------------------------|---------|
| (x) one month extension..... | \$ 120 |
| () two month extension..... | \$ 450 |
| () three month extension..... | \$1,020 |

Charge **\$120.00** to Deposit Account No. 19-2570. Authorization is given to charge any
additional fees which may be required by this paper, or credit any overpayment, to Deposit Account
No. 19-2570.

ELECTION/RESTRICTION

Claims 1-26 are pending in the application. Claims 1-26 are subject to restriction and/or
election requirement. Restriction to one of the following invention is required under 35 U.S.C. § 121
and § 372 as follows:

- I. Claims 1-13, 16, 18-20, drawn to polynucleotide encodes HPV.
- II. Claims 14, 15, 17, drawn to expression vector.
- III. Claim 21, drawn to the use of polynucleotide.
- IV. Claim 22, drawn to use of vector.
- V. Claim 23, drawn to use of composition.
- VI. Claim 24, drawn to use of polynucleotide.
- VII. Claim 25, drawn to method of treating.
- VIII. Claim 26, drawn to method of treating.

Upon review of the Detailed Action provided by the Examiner, Applicants provisionally elect
the subject matter of Group I. However, Examiner further requires Applicants to select one sequence
to be examined on the merits, and amend the claims accordingly. It is respectfully submitted that such

requirement eviscerates the intention of the present invention. The present invention, for example, claim 1 is directed to DNA encoding a *fusion protein* of at least three HPV genes from at least two different strains of HPV. Therefore invention is not limited to any particular sequence - the invention is in the recognition that several genes from different strains can be codon-optimised and combined together in an expression cassette, used as a vaccine which will express and induce an immune response in-vivo. Limiting to any sequence will render the present invention devoid of any value.

A restriction requirement under 35 U.S.C. §121 is fully discretionary on the part of the Examiner. Applicants respectfully request that the Examiner reconsider and withdraw the restriction requirement as to election of a particular sequence within Group I.

Respectfully submitted,



William T Han
Attorney for Applicants
Registration No. 34,344

GlaxoSmithKline Corporation
Corporate Intellectual Property - UW2220
P.O. Box 1539
King of Prussia, PA 19406-0939
Phone (610) 270-5263
Facsimile (610) 270-5090